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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-159779

DATE: April 25, 1978

MATTER OF: Bureau of Engraving - Night Shift Employees on Duty
When Daylight Savings Time Becomes Effective

DIGEST: Employees who have regularly scheduled night shifts are charged 1 hour of annual leave when they work only 7 hours on last Sunday in April when daylight savings time begins. Alternatively, agency may, by union agreement or agency policy, permit employees to work an additional hour on that day as method of maintaining regular 8-hour shift and normal pay. Administrative leave is not a proper alternative.

By letter dated January 18, 1978, The Honorable William J. Beckham, Jr., Assistant Secretary (Administration), Department of the Treasury, requests our decision whether it would be permissible for the Bureau of Engraving and Printing to grant employees 1 hour of administrative leave when they are on a regularly scheduled night shift and would otherwise lose 1 hour of work and pay due to the change from standard time to daylight savings time at 2 a.m. on the last Sunday in April pursuant to 15 U.S.C. 260a(a) (1976).

The present policy of the Bureau is to charge employees 1 hour of annual leave (or, if necessary, leave without pay) when the change to daylight savings time occurs. That policy is in accord with our decision in 26 Comp. Gen. 921 (1947) which states that it is proper to permit employees to use annual leave to avoid the loss of pay and benefits. The Assistant Secretary points out that a more recent decision, 53 Comp. Gen. 292 (1973), reiterates the propriety of the prior decision regarding the charging of annual leave. That decision also holds that, under the applicable statutes and regulations, an employee may not be paid Sunday premium pay for that hour, but is entitled to night differential for the hour of annual leave if his total paid leave for the period is less than 8 hours.

The Assistant Secretary notes that, under our decisions, the employees concerned lose 1 hour of annual leave, designed for personal use at the employees' discretion, through what is essentially an involuntary process. Also, the situation occurs every year and affects approximately 20 employees in the Bureau.

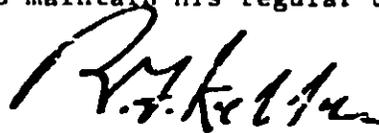
The Assistant Secretary specifically asks the following questions:

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1. Is the Bureau permitted to grant administrative leave to those employees who are on scheduled duty at 2 a.m. during the change to daylight savings time?
2. If the answer to question 1 is in the negative, are the alternatives for determining just compensation limited to the charge of 1 hour of annual leave or leave without pay?

Our initial decision, 26 Comp. Gen. 921, noted that the daylight time statute involved did not affect the statutes pertaining to the hours of duty and pay of Federal employees. Therefore, it was held that employees should be paid only for the elapsed time that the employees were actually on duty. However, since that holding would result in a loss of 1 hour of pay for the employees on duty when the change to daylight savings time occurred, agencies were permitted to charge employees 1 hour of annual leave and pay them their regular compensation. Our 1973 decision, 53 Comp. Gen. 292, affirmed that rule but held that night differential should be paid for the hour of leave since the law permits such payment when employees on regularly scheduled night shifts are on paid leave for less than 8 hours in a pay period. We have examined the matter and the pertinent statutes. We find there has been no basic statutory change that affects our prior decisions. Therefore, we hold in response to question 1 that the Bureau is not permitted to grant administrative leave to employees who are on regularly scheduled duty at 2 a.m. during the change to daylight savings time.

Regarding question 2, decision 56 Comp. Gen. 858 (1977) holds that where an employee on the midnight to 8 a.m. shift was permitted to work from 8 a.m. to 9 a.m. pursuant to an agreement between the agency and a union, he was entitled to be paid Sunday premium pay for the eighth hour actually worked. The decision stated that the optional hour from 8 a.m. to 9 a.m. was part of the regularly scheduled tour of duty since it was authorized in advance as a method of maintaining the normal length of the tour of duty. Accordingly, as an alternative to annual leave (or leave without pay) an agency may, pursuant either to a union agreement or an agency policy permit an employee who is on duty at the time daylight savings time goes into effect to work 1 hour after the normal end of his shift on such day in order to maintain his regular 8-hour shift and normal pay.



Deputy Comptroller General
of the United States